

## CHAPTER 2.00 - SCHOOL BOARD GOVERNANCE AND ORGANIZATION

### Policy Against Discrimination and Harassment

2.16

1. Policy Against Discrimination. The School Board of St. Johns County, Florida prohibits all forms of unlawful discrimination against students, employees and other persons in all aspects of the District's programs, activities and operations. The term "unlawful discrimination" encompasses any unlawful policy, practice, conduct, or other unlawful denial of rights, benefits, or privileges that is based on any legally protected status or classification under applicable federal, state, or local law including, but not limited to, race (including anti-Semitism), color, religion, sex, age, marital status, disability, political or religious beliefs, national or ethnic origin, or genetic information.
  - a. The School Board shall comply with all state and federal laws that prohibit discrimination and are designed to protect the civil rights of employment applicants, employees, students, and other persons protected by law.
  - b. The School Board shall admit students to District schools, programs, and classes without regard to race, color, religion, sex, age, national or ethnic origin, marital status, or disability.
  - c. In accordance with the Boys Scouts of America Equal Access Act 20 U.S.C. § 7905, the School Board shall not deny equal access to District facilities or discriminate against the Boy Scouts of America or any youth group listed in Title 36A as a patriotic society.
2. Policy Against Sexual Harassment and Other Forms of Unlawful Harassment. The School Board strives to maintain an academic and work environment in which all employees, volunteers, and students are treated with respect and dignity. A vital element of this environment is the Board's commitment to equal opportunities and the prohibition of discriminatory practices. The Board's prohibition against discriminatory practices includes prohibitions against sexual harassment, or any other form of harassment based upon a person's membership in a protected class and prohibited by applicable state or federal law, by District employees, agents, students, volunteers and vendors. This policy prohibits sexual harassment, or any other form of illegal harassment, of any employee, student, volunteer or visitor.
3. Equal Opportunity Officer. The District's Equal Opportunity Officer ("EEO") is Cynthia Preston, 40 Orange Street, St. Augustine, Florida 32084, [cynthia.preston@stjohns.k12.fl.us](mailto:cynthia.preston@stjohns.k12.fl.us).
4. Definitions. For purposes of this rule, "sexual harassment" and related terms are defined as follows:

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- a. Sexual Harassment. Prohibited Sexual Harassment includes, but is not limited to, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, including instances of:
  - i. Conditioning the provision of a District benefit, or service on an individual's participation in unwelcome sexual conduct;
  - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
  - iii. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).
- b. Examples of Sexual Harassment. Types of conduct which may constitute Sexual Harassment are listed in paragraph 2.b. of Rule 2.161.
- c. Other Forms of Prohibited Harassment. Illegal harassment on the basis of characteristics protected by state or federal law is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of race, color, religion, sex, national origin, age, disability, marital status, citizenship or any other characteristic protected by law and that:
  - i. Has the purpose or effect of creating an intimidating, hostile or offensive work or academic environment;
  - ii. Has the purpose or effect of interfering with an individual's work or academic performance; or
  - iii. Otherwise adversely affects an individual's employment or academic performance.
- d. Examples of Other Prohibited Harassment. Actions which may constitute other forms of harassment include, but are not limited to, the following:
  - i. Epithets, slurs or negative stereotyping;
  - ii. Threatening, intimidating or hostile acts, such as stalking; and
  - iii. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on school or District office premises or circulated in the workplace or academic environment.

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- e. “Complainant” means an individual who is alleged to be the victim of conduct that could constitute discrimination or harassment prohibited by this rule.
  - f. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute discrimination or harassment prohibited by this rule.
5. Prohibited Retaliation. Acts of retaliation against an individual who files or participates in the investigation of a complaint alleging a violation of this anti-discrimination policy or Grievance Process for Complaints of Sexual Harassment under Rule 2.161 are prohibited. Retaliation may include, but is not limited to, any form of intimidation, reprisal or harassment based upon the filing of a complaint, or participation in the investigation of a complaint of discrimination.
6. Procedure for Filing a Complaint of Sexual Harassment. A person who believes he or she has been sexually harassed by an employee, volunteer, student or vendor of the District should file a complaint with the District Title IX Coordinator under the School Board Rule 2.161 Grievance Process for Complaints of Sexual Harassment. The Complaint should be filed within sixty (60) days of the alleged incident.
7. Procedures for Filing Complaint of Discrimination Other Than Sexual Harassment. Any person who believes that he or she has been discriminated against, harassed, or subjected to a hostile environment, based on grounds other than Sexual Harassment by an employee, volunteer, agent or student of the School District should immediately file a written complaint within sixty (60) days of the alleged incident. The complaint should set forth a description of the alleged discriminatory actions, the time frame in which the alleged discrimination occurred, the person or persons involved in the alleged discriminatory actions, and any witnesses or other evidence relevant to the allegations in the complaint.
- a. The complaint should be filed with the EEO Officer, school principal or site administrator. Complaints filed with the principal or site administrator must be forwarded to the District’s EEO Officer within five (5) days of the filing of the complaint. If the complaint is against the principal or site administrator, the complaint should be filed directly with the EEO Officer.
  - b. If the complaint is against the District’s EEO Officer, the Superintendent, or a member of the School Board, the complaint should be filed with the School Board Attorney.
8. Procedure for Processing Complaints. A complaint shall be processed as follows:
- a. Promptly after receiving a complaint, the EEO Officer shall determine whether the allegations may constitute Sexual Harassment prohibited by Title IX. If so, the Title IX Grievance Process under Rule 2.161 shall be

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followed. Otherwise, the investigation shall proceed in accordance with subparagraphs b. – l.

- b. Promptly upon receipt of the written complaint, the EEO Officer shall appoint an investigator (“Investigator”) to conduct an investigation of the allegations in the complaint. The Investigator shall interview the Complainant and the Respondent; interview any witnesses identified by the Complainant, Respondent, or by other sources; take statements from all witnesses; and review any relevant documents or other evidence. Promptly following appointment, the Investigator should also determine whether interim measures should be taken pending the completion of the investigation. Upon completing a review of the relevant evidence, the Investigator shall prepare a written summary of the investigation, and make a recommendation to the District EEO Officer as to whether there is reasonable cause to believe a violation of the District’s anti-discrimination policy has occurred.
- c. Within thirty (30) days after appointment, the Investigator shall provide the investigation summary, relevant documents, witnesses’ statements and recommendation to the EEO Officer. The EEO Officer shall review the investigation summary, evidence and recommendation, and determine within ten (10) days whether there is reasonable cause to believe a discriminatory practice occurred.
- d. If the EEO Officer determines there is reasonable cause to believe a violation of the nondiscriminatory policy occurred, he or she shall provide within ten (10) days’ notice of the reasonable cause finding to the Complainant and the Respondent. The EEO Officer or School Board Attorney shall then forward the investigatory file, reasonable cause determination, and all related documents and evidence, to the Superintendent.
- e. If the EEO Officer determines, after a review of the investigation, summary, recommendation and other evidence, that there is no reasonable cause to believe a discriminatory practice occurred, he or she shall provide notice within ten (10) days of the finding of no reasonable cause to the Complainant and Respondent.
- f. Within ten (10) days after receipt of this no reasonable cause notice, the Complainant may request a no reasonable cause finding by the EEO Officer be reviewed by the Superintendent. The Complainant shall provide a written statement in support of his or her disagreement with the determination. The Complainant will also be given an opportunity to meet with the Superintendent and EEO Officer to present his or her position. Within ten (10) days after receipt of the Complainant’s request, the Superintendent

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shall then make a final determination as to whether there is reasonable cause to believe a discriminatory practice occurred.

- g. If review by the Superintendent is not timely requested, the EEO Officer's determination of no reasonable cause shall be final.
  - h. The Respondent may request, within ten (10) days of receipt of a notice of a finding of reasonable cause, that the determination be reviewed by the Superintendent. The request must include a written statement expressing the Respondent's position on the complaint and findings, and address any facts, statements or evidence which he or she submits are inaccurate. The Respondent will be given an opportunity to meet with the Superintendent and the EEO Officer to present his or her position.
  - i. After providing the opportunity for an informal hearing as referenced in subparagraphs f. and h. above, the Superintendent shall evaluate all the evidence, the investigation summary, recommendations and findings, along with any input by the Respondent and Complainant, and make a final determination as to whether there is reasonable cause to support the Complainant's allegations. He or she shall then determine any necessary disciplinary, remedial, or other action. Notice of the final disposition of the complaint and any disciplinary and/or remedial action shall be forwarded to the Respondent and the Complainant within ten (10) days after the informal hearing, and a copy of the final disposition will be filed with and maintained in the office of the District EEO Officer and the Human Resources Director.
  - j. All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency.
  - k. Employees may choose to pursue their complaints through the relevant employee collective bargaining grievance procedure instead of the complaint procedure in this policy.
  - l. If the complaint is against the EEO Officer, the School Board Attorney shall perform the duties of the EEO Officer in the complaint and investigation process.
  - m. Notwithstanding anything to the contrary in this rule, a complaint may be dismissed if it fails to allege actionable discrimination on the basis of a legally protected status or characteristic.
9. Complaints against School Board Members or the Superintendent. Complaints against School Board members or the Superintendent shall be filed with the School Board Attorney. Within ten (10) days after receipt of the complaint, the School Board Attorney will appoint an outside, independent investigator ("Investigator") to conduct an investigation and make a recommendation as to whether a discriminatory practice has occurred. It is recommended, but not mandatory, that

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the Investigator be an attorney familiar with federal and state law prohibiting discrimination on the basis of a protected status.

- a. The Complainant and Respondent shall be interviewed by the outside Investigator. Both shall provide written lists of witnesses to be interviewed, and documents or other evidence to be reviewed as relevant to the complaint. The Investigator shall interview all witnesses identified by the Complainant or Respondent, in addition to witnesses with relevant knowledge which the Investigator may discover from other sources. The Investigator shall also review relevant documents and other evidence. Within twenty (20) days after receipt of the complaint, the Investigator shall then prepare a written summary of his or her investigation, and a recommendation to the School Board Attorney as to whether there is reasonable cause to believe that a discriminatory practice may have occurred.
  - b. If reasonable cause is recommended by the Investigator against a School Board Member, the recommendation shall be forwarded to the Governor's office within twenty (20) days of receipt of the recommendation to determine if there is evidence that a misfeasance or malfeasance of office occurred. The Governor's Office will be responsible for taking any necessary action in accordance with applicable law with reference to an elected official. The School Board shall receive and make the final determination on the Superintendent.
  - c. A finding of no reasonable cause by the outside Investigator, which is reviewed and confirmed by the School Board Attorney shall be final. In compliance with Florida Statute, the investigation file shall become public record and the School Board Member shall answer to their constituency.
10. Sanctions for Confirmed Discrimination or Harassment. In cases of confirmed discrimination or harassment, the following sanctions are available:
- a. A substantiated allegation of discrimination or harassment against a student shall subject that student to disciplinary action consistent with the Code of Student Conduct.
  - b. A substantiated allegation of discrimination or harassment against an employee may result in disciplinary action including termination and referral to appropriate law enforcement authorities. A volunteer shall be removed from service and a referral may be made to appropriate law enforcement authorities.
11. Public Records Disclosure and Exemptions. The public disclosure of information related to an investigation of a complaint of discrimination against District employees shall be governed by applicable statutory requirements. To the extent possible, complaints by or against students will be treated as confidential in

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accordance with Florida Statutes and the Family Educational Rights and Privacy Act ("FERPA"). Limited disclosure may be necessary to complete a thorough investigation as described above, and to afford the Respondent procedural due process. The District's obligation to investigate and take corrective action may supersede an individual's right to privacy.

12. Parental Notification. The parents of a person under the age of 18 who has filed a complaint of discrimination or harassment or has been accused in a complaint of discrimination or harassment shall be notified within three (3) days of receipt of a complaint.
13. Guidelines and Procedures. The Superintendent is authorized to adopt guidelines and procedures to implement, interpret and augment this rule.

### STATUTORY AUTHORITY:

1001.41; 1001.42; 1012.23, F.S.

### LAWS IMPLEMENTED:

1000.05, F.S.

42 USC 2000; 29 USC 621; 42 USC 12101;  
20 USC 1681; 42 USC 1983;  
34 CFR PARTS 100 AND 104;  
28 CFR PART 35; 29 CFR 1635

### STATE BOARD OF EDUCATION RULE:

CHAPTER 6A-19, F.A.C.

### HISTORY:

ADOPTED: 8/18/98  
REVISION DATE(S): 12/18/03; 07/01/08; 10/08/13; \_\_/\_\_/25

FORMERLY: 5.21, 6.43